



HARRIET MCBRYDE JOHNSON
ATTORNEY AT LAW
FRANKE BUILDING
171 CHURCH STREET, SUITE 160
CHARLESTON, SOUTH CAROLINA 29401

(843) 722-0178 (VOICE) • (843) 722-8250 (TDD) • FAX (843) 577-0460

January 14, 2003

BY FAX - 202/228-0861

The Hon Orren Hatch
US SENATE
Judiciary Committee
Washington DC

RE: SUTTON NOMINATION

Dear Senator Hatch:

I would like to express my **opposition** to the nomination of Jeffrey Sutton to the U.S. Court of Appeals for the Sixth Circuit. Of particular concern is Mr Sutton's view of authority to legislate under the enabling clause of the 14th amendment.

The amendment itself plainly vests in Congress the responsibility for implementing the equal protection and due process clauses as applied to the states. The flexible legislative process is uniquely able to gather facts, weigh interests, and shape solutions that are practical and fair. The two great examples of the exercise of this responsibility are the 1964 Civil Rights Act and the 1990 Americans with Disabilities Act. In both, Congress identified the problem of discrimination, outlawed specific practices, and set up remedies that reflected reasonable compromises among the affected interests.

In the case of the ADA, Mr Sutton would toss this careful legislative decision-making out the window. He would give the judiciary sole responsibility for deciding when state-sponsored discrimination should be illegal. A forum designed to resolve narrow controversies between specific parties would be required to determine broad social policy. The branch of government designed to apply the law would be asked to create it - or at least given a plenary veto power.

Please reject this nomination and send a message to President Bush that nominees should respect the basic balance of power embodied in the 14th amendment.

Sincerely,


Harriet McBryde Johnson